

# Order

Michigan Supreme Court  
Lansing, Michigan

October 15, 2015

Robert P. Young, Jr.,  
Chief Justice

150116 & (54)

Stephen J. Markman  
Brian K. Zahra  
Bridget M. McCormack  
David F. Viviano  
Richard H. Bernstein  
Joan L. Larsen,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 150116  
COA: 312583  
Kent CC: 12-002310-FC

ANTONIO MARKESE CUMMINGS,  
Defendant-Appellant.

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By order of May 28, 2015, the prosecuting attorney was directed to answer the application for leave to appeal the August 5, 2014 judgment of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE in part the judgment of the Court of Appeals, and we REMAND this case to the Kent Circuit Court. A sentencing judge may make a sentence imposed for first-degree criminal sexual conduct consecutive to any term of imprisonment imposed for any other criminal offense arising from the same transaction. MCL 750.520b(3). The sentencing judge in this case failed to identify any evidence from which one could conclude that the imposition of consecutive sentences was warranted. On remand, the trial court shall either issue an order that provides a basis for its conclusion that the two criminal offenses arose from the same transaction, or resentence the defendant. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court. The motion to file a rebuttal to the prosecution's answer is GRANTED.

We do not retain jurisdiction.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 15, 2015

  
Clerk